

**STATEMENT OF
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FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE**

**Before the
Subcommittee on National Parks, Historic Preservation, and Recreation
Committee on Energy and Natural Resources
United States Senate**

Concerning S. 568, Commercial Film Activities

March 24, 1999

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to be here today to present the Department of Agriculture's views concerning S. 568, commercial filming activities legislation. Other legislation on this subject has been introduced in both the Senate (S. 338) and the House (H.R. 154). The Department of Agriculture defers to the Department of Justice on any constitutional issues with these bills.

While the Department of Agriculture supports the objectives of S. 568, many of the bill's provisions are unnecessary. The Secretary of Agriculture currently has statutory authority to permit and collect land use fees for use and occupancy of National Forest System lands, including use for purposes of commercial filming. The Secretary also has the statutory authority to recover costs associated with processing and monitoring these uses.

However, the Secretary of Agriculture lacks the authority to retain and spend these land use and cost recovery fees and the Department supports the provision of S. 568 that would grant this authority.

Land Use Fee Collection

The Organic Administration Act of 1897 provides the Secretary with broad discretionary authority to regulate the use and occupancy of National Forest System lands, including commercial filming activities, and to assess and collect fees for those uses. Regulations for occupancy and use have been promulgated (36 CFR 251), and the Forest Service's commercial filming policy is contained in our manual and handbook. The Forest Service requires those who engage in commercial filming activities, including still photography, which includes props, models and sets, on National Forest System land to obtain a special use permit. As a requirement for obtaining a special use permit, the Forest Service assesses and collects from the holder a land use fee. The fees charged represent the value of the rights and privileges granted to the holder for the use and occupancy of National Forest System land for commercial filming purposes. Since the Forest Service has this authority, we believe that this part of the legislation is unnecessary for the Department of Agriculture.

Cost Recovery

The Independent Offices Appropriations Act of 1952 authorizes the Department of Agriculture to assess and collect processing and monitoring fees (i.e., "cost recovery fees") from applicants for and holders of special use authorizations. The Forest Service is currently developing regulations to implement this authority. These regulations will implement the Secretary's authority to assess and collect cost recovery fees. However, under current authority any cost recovery fees collected would be deposited into the Treasury.

Retention

S.568 would provide the Secretary with the additional authority needed to retain and spend cost recovery and land use fees from commercial filming activities, without further appropriations. The Department of Agriculture supports this portion of the bill which, in part, closely reflects the authority and included in that the Administration has proposed in the FY 2000 budget.

However, we do not agree that the use of such fees should be limited to the purposes specified in the bill or that the revenues should be used on the specific

unit from which the fees were collected. Often, this may be the best use of the revenues, but it would be preferable to hold the land use fees in a general account which is available without appropriation for administration and management of all authorized special uses on the National Forests System lands. Additionally, cost recovery fees should be used for the costs of permit administration and monitoring.

Allowing uses which generate revenue must be consistent with good land stewardship and should promote healthy watersheds, forests, and rangelands. Specifically, generation of fees should not be a consideration in determining whether to authorize a special use on the national forests.

S. 568 also directs that the Secretary shall establish systems to ensure that requests for permits are responded to in a timely manner. We agree with the objective but believe it is unnecessary to direct the Secretary to establish a system.

Retention of cost recovery fees would be used to cover agency costs to process special use applications for commercial filming activities and monitor these authorizations. Cost recovery would allow the agency to be more responsive to applicants for, and holders of, special use authorization.

Closing

Mr. Chairman, we would prefer to work with you and the Members of the Subcommittee to limit this proposal, as it relates to the Department of Agriculture, to fee and cost retention, or to eliminate the Department of Agriculture from this bill and gain your support for the Administration's budget initiative. We would support the authority to retain and spend land use rental fees and cost recovery fees to provide better public service and to maintain and restore our forests and watersheds.

This concludes my statement. I would be happy to answer any questions you and Members of the Subcommittee might have.